



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2015-0299; FRL-9928-91-Region 7]

**Approval and Promulgation of Air Quality Implementation Plans;
State of Kansas Regional Haze State Implementation Plan Revision
and 2014 Five-Year Progress Report**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the Kansas State Implementation Plan (SIP) revision submitted to EPA by the State of Kansas on March 10, 2015, documenting that the State's existing plan is making adequate progress to achieve visibility goals by 2018. The Kansas SIP revision addressed the Regional Haze Rule (RHR) requirements under the Clean Air Act (CAA or Act) to submit a report describing progress in achieving reasonable progress goals (RPGs) to improve visibility in Federally designated areas in nearby states that may be affected by emissions from sources in Kansas. EPA is proposing to approve Kansas' determination that the existing RH SIP is adequate to meet the visibility goals and requires no substantive revision at this time.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2015-0299, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. *Email*: krabbe.stephen@epa.gov.
3. *Mail or Hand Delivery*: Stephen Krabbe, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2015-0299. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going

through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these

documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Stephen Krabbe, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at 913-551-7991, or by email at krabbe.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
 - A. Background on Regional Haze
 - B. Background on Regional Haze Plans
 - C. Requirements for Regional Haze Progress Reports
- II. Have the Requirements for Approval of a SIP Revision Been Met?
 - A. EPA's Evaluation of Kansas' Progress Report
 - 1. Status of Control Measures
 - 2. Emissions Reductions and Progress
 - 3. Visibility Progress
 - 4. Emissions Tracking
 - 5. Assessment of Changes Impeding Visibility Progress
 - 6. Assessment of Current Strategy
 - 7. Review of Current Monitoring Strategy
 - B. Determination of Adequacy of Existing Regional Haze Plan
 - C. Consultation with Federal Land Managers
- III. What Action is EPA Taking?

I. What is Being Addressed in this Document?

EPA is proposing to approve the Kansas Department of Health and Environment's (KDHE) determination that the existing Kansas RH SIP is adequate to achieve the established Reasonable Progress Goals (RPGs) for Class I areas affected by Kansas sources, and

therefore requires no substantive revision at this time. EPA's proposed approval is based on the Kansas State Implementation Plan Revision for the Attainment and Maintenance of NAAQS for Regional Haze (2014 Progress Report) ("Progress Report or "Report") submitted by KDHE to EPA on March 10, 2015, that addresses 51.308(g) and (h) of the RHR. The Progress Report demonstrates that the emission control measures in the existing RH SIP are sufficient to enable other states with Class I areas affected by emissions from sources in Kansas to meet all established RPGs for 2018. We are also proposing to find that Kansas fulfilled the requirements in 51.308(i)(2), (3), and (4) to provide Federal Land Managers (FLMs) with an opportunity to consult on the RH SIP revision, describe how KDHE addressed the FLMs' comments, and provide procedures for continuing consultation.

A. Background on Regional Haze

Regional haze is a visibility impairment produced by many sources and activities located across a broad geographic area that emit fine particulates that impair visibility by scattering and absorbing light, thereby reducing the clarity, color, and visible distance that one can see. These fine particles also can cause serious health effects and mortality in humans and contribute to environmental impacts, such as acid deposition and

eutrophication of water bodies.

The RHR uses the deciview as the principle metric for measuring visibility and for the RPGs that serve as interim visibility goals toward meeting the national visibility goal of reaching natural conditions by 2064. A deciview expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. Deciviews are determined by using air quality measurements to estimate light extinction, and then transforming the value of light extinction using a logarithmic function. Deciview is a more useful measure for tracking progress in improving visibility than light extinction because each deciview change is an equal incremental change in visibility perceived by the human eye. Most people can detect a change in visibility at one deciview.

B. *Background on Regional Haze Plans*

In section 169A(a)(1) of the CAA amendments of 1977, Congress created a program to protect visibility in designated national parks and wilderness areas, establishing as a national goal the "prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." In accordance with section 169A of the CAA and after consulting

with the Department of Interior, EPA promulgated a list of 156 mandatory Class I Federal areas where visibility is identified as an important value (44 FR 69122, November 30, 1979). In this notice, we refer to mandatory Class I Federal areas as "Class I areas." Kansas does not have any Class I areas within the state.

With the CAA amendments of 1990, Congress added section 169B to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999, known as the Regional Haze Rule (64 FR 35713). The RHR revised the existing visibility regulations in 40 CFR 51.308 to integrate provisions addressing regional haze impairment and to establish a comprehensive visibility protection program for Class I areas.

KDHE submitted its initial RH SIP to EPA on October 26, 2009, in accordance with the requirements of 40 CFR 51.308 for the first regional haze planning period ending in 2018. EPA approved the Kansas RH SIP for the first planning period on December 27, 2011 (76 FR 80754). The Progress Report from KDHE is the first evaluation of whether the existing Kansas RH SIP is sufficient to enable other states affected by emissions from sources in Kansas to meet the established visibility goals for 2018.

C. *Requirements for Regional Haze Progress Reports*

States are required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and in each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. 40 CFR 51.308(g). States are also required to submit, at the same time as the progress report, a determination of the adequacy of the state's existing regional haze SIP. 40 CFR 51.308(h). The first progress report SIP is due five years after submittal of the initial regional haze SIP. In summary¹, the seven elements are: (1) a description of the status of measures in the approved regional haze SIP; (2) a summary of emissions reductions achieved; (3) an assessment of visibility conditions for each Class I area in the state; (4) an analysis of changes in emissions from sources and activities within the state; (5) an assessment of any significant changes in anthropogenic emissions within or outside the state that have limited or impeded progress in Class I areas impacted by the

¹ Please refer to 40 CFR 51.308(g) for the exact Rule requirements.

state's sources; (6) an assessment of the sufficiency of the approved regional haze SIP; and (7) a review of the state's visibility monitoring strategy.

Under 40 CFR 51.308(h), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of their existing regional haze SIP and to take one of four possible actions based on information in the progress report. In summary², these actions are to: (1) submit a negative declaration to EPA that no further substantive revision to the state's existing regional haze SIP is needed; (2) provide notification to EPA (and other state(s) that participated in the regional planning process) if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in other state(s) that participated in the regional planning process, and collaborate with these other state(s) to develop additional strategies to address deficiencies; (3) provide notification with supporting information to EPA if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress at one or more Class I areas due to emissions from sources in another country; or (4) revise its regional haze SIP

² Please refer to 40 CFR 51.308(h) for the exact Rule requirements.

to address deficiencies within one year if the state determines that its existing regional haze SIP is or may be inadequate to ensure reasonable progress in one or more Class I areas due to emissions from sources within the state.

A state must document that it provided FLMs with an opportunity for consultation prior to holding a public hearing on an RH SIP or plan revision as required in 40 CFR 51.308(i)(2). In addition, a state must include a description of how it addressed any comments from the FLMs, and provide procedures for continuing consultation with the FLMs as required in 40 CFR 51.208(i)(3) and (4).

II. Have the Requirements for Approval of a SIP Revision Been Met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

A. EPA's Evaluation of Kansas' Progress Report

This section describes Kansas' Progress Report and EPA's evaluation of the Report in relation to the seven elements listed in 40 CFR 51.308(g) and the determination of adequacy in

40 CFR 51.308(h). We also review the requirement in 40 CFR 51.308(i) (2) for state and FLM coordination on a plan revision.

1. Status of Control Measures

40 CFR 51.308(g) (1) requires a description of the status of implementation of all measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the state. Kansas evaluated the status of all measures included in its 2009 regional haze SIP in accordance with 40 CFR 51.308(g) (1). In its Progress Report, Kansas summarizes the long-term strategy for emissions reductions of all air pollutants that may affect visibility. The state notes that Nitrogen Oxides (NO_x) and Sulfur Dioxide (SO₂) are the most important pollutants in reducing visibility and includes details of the strategies implemented to reduce those pollutants. The measures include both state and Federal programs. The state programs include unit-specific emissions limits for the five electric generating units that are subject to BART and were included in agreements between KDHE and the owners of the EGU's, which were later modified by an enforcement settlement between EPA and Westar Energy. The measures also include applicable Federal programs (e.g., Maximum Achievable Control Technology (MACT) standards, the 2007 Heavy-Duty Highway Rule, Tier 2 Vehicle and Gasoline Sulfur Program, and the Clean Air Nonroad

Diesel Rule). The state documents the implementation status of measures from its regional haze SIP as well as describes significant measures resulting from EPA regulations other than the regional haze program as they pertain to the state's sources. Kansas describes the implementation status of measures from its regional haze SIP, including the status of control measures to meet BART and reasonable progress requirements, as well as the status of significant measures resulting from EPA regulations.

EPA proposes to find that Kansas' analysis adequately addresses 40 CFR 51.308(g) (1) for reasons discussed above.

2. Emissions Reductions and Progress

40 CFR 51.308(g) (2) requires a summary of the emissions reductions achieved in the state through the measures subject to 40 CFR 51.308(g) (1). In its regional haze SIP and Progress Report, Kansas focuses its assessment on NO_x and SO₂ emissions from stationary sources because the state determined that these sources accounted for the majority of the visibility-impairing pollution from Kansas. SO₂ emissions from subject-to-BART facilities decreased in Kansas from 80,828 tons in 2003 to 17,026 tons in 2012, a 79 percent decrease. Also, NO_x emissions

decreased from 60,936 tons in 2002 to 16,434 tons in 2012, a 73 percent decrease. Kansas noted that reasonable progress units declined 60 percent for NO_x and 77 percent for SO₂ from 2002 to 2012. Much of these reductions were not mandated by the Regional Haze SIP, but by the 2010 Westar Energy settlement³ and closure of the Lafarge Midwest - Fredonia Portland cement kilns.

EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(2). The state provides actual emissions reductions of NO_x and SO₂ from EGUs and other large NO_x and SO₂ sources in Kansas that have occurred since Kansas submitted its regional haze SIP. The state also provides estimates of emissions of NO_x and SO₂ for 2018. Kansas appropriately focused on NO_x and SO₂ emissions from its EGUs and other stationary sources in its progress report SIP because it previously identified these emissions as the most significant contributors to visibility impairment at those Class I areas that Kansas sources impact.

Given the large NO_x and SO₂ reductions at subject-to-BART EGUs and other sources that have actually occurred, further analysis of emissions from other sources or other pollutants was ultimately unnecessary in this first implementation period. Because no additional controls were found to be necessary for

³ U.S. v. Westar Energy, Inc. 09-CV-2059 (D. Kan.)

reasonable progress for the first implementation period for evaluated sources in Kansas, EPA proposes to find that no further discussion of emissions reductions from controls was necessary in the Progress Report.

3. Visibility Progress

40 CFR 51.308(g) (3) requires that states with Class I areas provide the following information for the most impaired and least impaired days for each area, with values expressed in terms of five-year averages of these annual values: current visibility conditions; the difference between current visibility conditions and baseline visibility conditions; and the change in visibility impairment over the past five years.

Kansas does not have any Class I areas within its boundaries, and as this section pertains only to states containing Class I areas, therefore, no further discussion is necessary. However, Kansas noted in its Progress Report that it is beneficial to have a record of visibility conditions at the Class I areas that are most affected by Kansas sources. The state analyzed four Class I areas, with a focus on the Wichita Mountains Wilderness area (the nearest Class I area to Kansas and most impacted by Kansas sources). The state compared the slope of the glide path of natural visibility conditions in 2064 to the slope of the best-fit line of five-year visibility

averages from 2002 to 2011 (in deciviews) for the 20 percent worst days and 20 percent best days. The analysis showed that visibility at all four Class I areas was improving at a rate faster than the glide path for the 20 percent worst days. Only the Wichita Mountains Wilderness area was not improving faster than the glidepath for the 20 percent best days, although visibility was still improving in the area.

EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(3).

4. Emissions Tracking

40 CFR 51.308(g)(4) requires an analysis tracking emissions changes of visibility-impairing pollutants from the state's sources by type or category over the past five years based on the most recent updated emissions inventory. In its Progress Report, Kansas presents data from a statewide emissions inventory developed for the year 2002 and compares this data to the National Emissions Inventory (NEI) 2011 version 1 (dated September 30, 2013), or simply the 2011 NEIv1. For both the 2002

dataset and the 2011 NEIv1 data, pollutants inventoried include NO_x, Fine Particulate Matter (PM_{2.5}), Coarse Particulate Matter (PM₁₀), Ammonia (NH₃), and SO₂. The emissions inventories from both the 2002 dataset and the 2011 NEIv1 include all point, nonpoint, onroad, and nonroad sources. The state interpolated values for 2009 through 2013 based on emissions inventory data. This shows that emissions of the key visibility-impairing pollutants identified by Kansas, NO_x and SO₂, continued to drop from 2009 to 2013 (decreasing 32,227 and 64,359 tons, respectively). Kansas noted that emissions of NO_x and SO₂, the primary contributors to visibility impairment from anthropogenic sources, are down significantly (10 percent for NO_x and 59.6 percent for SO₂). However, the state noted that NH₃ and particulate matter (PM) emissions were reported up from the 2002 to 2011 inventories and need to be addressed. The state cited changes in the way that these pollutants were reported for each inventory as the reason for most of the reported increases in NH₃ and PM. Accounting for the differing reporting methods shows that PM_{2.5} and PM₁₀ emissions from fires is slightly up by 2011, however, this pollutant source is highly variable.

While ideally the five-year period to be analyzed for emissions inventory changes is the time period since the current regional haze SIP was submitted, there is an inevitable time lag in developing and reporting complete emissions inventories once equality-assured emissions data becomes available. Therefore, EPA believes that there is some flexibility in the five-year time period that states can select. Kansas tracked changes in emissions of visibility-impairing pollutants using the 2011 NEIv1, which was the most recent updated inventory of actual emissions for the state at the time that it developed the progress report SIP. EPA believes that Kansas's use of the five-year period from 2009 to 2013 reflects an accurate picture of the actual emissions realized between 2002-2013, and as in many cases, Kansas had already reached or surpassed their 2018 goals by 2013. EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(4).

5. Assessment of Changes Impeding Visibility Progress

40 CFR 51.308(g)(5) requires an assessment of any significant changes in anthropogenic emissions within or outside the state that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the state's sources.

In its Progress Report, Kansas addresses the changes in anthropogenic emissions between 2009 and 2013 throughout the Midwest, especially due to sources installing controls to comply with present and near-future air quality standards (the Mercury and Air Toxics Standards Rule and the Clean Air Interstate Rule). Kansas noted that there have been significant reductions among anthropogenic emissions source categories, especially EGU's, with decreases in SO₂ of 17.5 percent and NO_x of 30.9 percent in Kansas and bordering states combined.

Kansas demonstrated that there are no significant changes in anthropogenic emissions that have impeded progress in reducing emissions and improving visibility in Class I areas impacted by Kansas and bordering state sources. The state referenced its analyses in the progress report SIP identifying an overall downward trend in these emissions from 2009 to 2013 in Kansas. Further, the progress report SIP shows that Kansas is on track to meeting its 2018 emissions projections.

EPA proposes to find that Kansas has adequately addressed 40 CFR 51.308(g)(5).

6. Assessment of Current Strategy

40 CFR 51.308(g)(6) requires an assessment of whether the current regional haze SIP is sufficient to enable Kansas, or other states, to meet the RPGs for Class I areas affected by

emissions from the state. In its Progress Report, Kansas states that it believes that the elements and strategies outlined in its original regional haze SIP are sufficient to enable Kansas and other neighboring states to meet all of the established RPGs and no further revision to the initial Kansas Regional Haze SIP is needed at this time. To support this conclusion, Kansas notes that anthropogenic emissions of NO_x has dropped 10 percent and SO₂ has dropped 59.6 percent.

EPA views this requirement as a qualitative assessment that should evaluate emissions and visibility trends and other readily available information, including expected emissions reductions associated with measures with compliance dates that have not yet become effective. Kansas referenced the improving visibility trends at affected Class I areas and the downward emissions trends in the state, with a focus on NO_x and SO₂ emissions from Kansas' EGUs that support Kansas' determination that its regional haze SIP is sufficient to meet RPGs for Class I areas outside the state impacted by Kansas sources. EPA believes that Kansas' conclusion regarding the sufficiency of the regional haze SIP is appropriate because of the calculated

visibility improvement using the latest available data and the downward trend in NO_x and SO₂ emissions from sources in Kansas. EPA proposes to conclude that Kansas has adequately addressed 40 CFR 51.308(g)(6).

7. Review of Current Monitoring Strategy

40 CFR 51.308(g)(7) requires a review of the state's visibility monitoring strategy and an assessment of whether any modifications to the monitoring strategy are necessary. In its progress report SIP, Kansas summarizes the existing IMPROVE monitoring network and its intended continued reliance on IMPROVE for visibility planning. Kansas operates two IMPROVE Protocol sampling sites, one at Cedar Bluff State Park in Trego County and the other at Tallgrass Prairie National Preserve in the Flint Hills region of eastern Kansas. Kansas has updated its monitoring plan annually and will consider the need to operate two IMPROVE sites with increasingly constrained finances.

EPA proposes to conclude that Kansas has adequately addressed the sufficiency of its monitoring strategy as required by 40 CFR 51.308(g)(7).

B. Determination of Adequacy of Existing Regional Haze Plan

Under 40 CFR 51.308(h), states are required to take one of four possible actions based on the information gathered and conclusions made in the progress report SIP. The following

section summarizes: (1) the action taken by Kansas under 40 CFR 51.308(h); (2) Kansas's rationale for the selected action; and (3) EPA's analysis and proposed determination regarding the state's action.

In its Progress Report, Kansas took the action provided for by 40 CFR 51.308(h) (1), which allows a state to submit a negative declaration to EPA if the state determines that the existing regional haze SIP requires no further substantive revision at this time to achieve the RPGs for Class I areas affected by the state's sources. The basis for Kansas' negative declaration is the findings from the progress report (as discussed in section II. A. of this action), including the findings that: NO_x and SO₂ emissions from Kansas's sources have decreased beyond original projections; and the NO_x and SO₂ emissions from EGUs in Kansas are already below the levels projected for 2018 in the regional haze SIP and are expected to continue to trend downward for the next five years.

Based on these findings, EPA proposes to agree with Kansas' conclusion under 40 CFR 51.308(h) that no further substantive changes to its regional haze SIP are required at this time.

C. Consultation with Federal Land Managers

On November 25, 2014, KDHE provided to the FLMs, a revision to Kansas' SIP reporting on progress made during the first

implementation period toward RPGs for Class I areas in the state and Class I areas outside the state that are affected by emissions from Kansas's sources. Notification was published in the Kansas Register, regional newspapers, and the KDHE website on October 23, 2014. A public hearing was not held because KDHE received no requests for a public hearing and the public comment period ended on November 21, 2014. On March 10, 2015, KDHE submitted the SIP to EPA.

Kansas' Progress Report includes the FLMs comments and KDHE's response to those comments in Appendix I to the Progress Report. In the section 3.8 Federal Land Manager (FLM) Coordination, KDHE commits to continuing policy discussions with the FLMs.

EPA proposes to find that KDHE has addressed the requirements in 51.308(i)(2), (3), and (4) to provide FLMs with an opportunity for consultation in person and at least 60 days prior to a public hearing on the SIP revision; include a description in the SIP revision of how it addressed any comments from the FLMs; and provide procedures for continuing consultation between the State and FLMs.

III. What Action is EPA Taking?

EPA is proposing approval of a revision to the Kansas SIP, submitted by the State of Kansas on March 10, 2015, as meeting

the applicable regional haze requirements as set forth in 40 CFR 51.308(g) and 51.308(h). We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this proposed action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This proposed action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. Filing a petition for reconsideration by the Administrator of this proposed rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action. This proposed action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2) .)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 28, 2015.

Mark Hague,
Acting Regional Administrator,
Region 7.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

Part 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et. seq.

Subpart R - KANSAS

2. In § 52.870 the table in paragraph (e) is amended by adding new entry (40) at the end of the table to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or Nonattainment area	State submittal date	EPA approval date	Explanation
* * * * *				
(40) State Implementation Plan (SIP) Revision for the Attainment and Maintenance of National Ambient Air Quality Standards for Regional Haze (2014 Five-Year Progress Report).	Statewide	3/10/15	[Insert Federal Register date of publication date] and [Insert Federal Register citation]	